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**MONTANA SECOND JUDICIAL DISTRICT COURT
BUTTE-SILVER BOW COUNTY**

FRANK RAISER, M.D.,

Plaintiff,

-vs-

ST. JAMES HEALTHCARE, a Montana
public benefit corporation, and John Does 1-
10,

Defendants.

Cause No.: DV-23-308

Judge Robert J. Whalen

**UNOPPOSED MOTION FOR
CONTINUANCE OF SHOW CAUSE
HEARING, and
OPPOSED MOTION TO EXTEND
TEMPORARY
RESTRAINING ORDER
EMERGENCY RULING
REQUESTED**

Plaintiff, Frank Raiser, M.D. ("Dr. Raiser"), requests that this Honorable Court continue the show cause hearing in this proceeding, and extend the Temporary Restraining Order for an additional ten days, and for cause states the following. A proposed order is lodged herewith.

Unopposed Motion to Continue Show Cause Hearing

1. The show cause hearing in this matter scheduled for December 7, 2023, at 1:30 p.m.
2. There is a conflict in the Court's calendar that date.
3. Dr. Raiser requests that the Court reschedule the show cause hearing for

December 21, 2023, at 1:30 p.m., and to grant permission for the optional appearance of counsel and/or witnesses by zoom or in person.

4. The undersigned has contacted counsel for St. James, who does not oppose this motion to continue the show cause hearing.

Opposed Motion to Extend the Temporary Restraining Order

5. Under Mont. Code Ann. § 27-19-316 (4), the Temporary Restraining Order (TRO) entered by the Court on November 29, 2023, expires after 10 days; i.e., December 11, 2023 (the last day is Saturday, December 9, 2023, and, thus, the period continues to run until the end of the next business day, Monday, December 11, 2023, *see* M.R.Civ.P. 6(a).)

6. Under Mont. Code Ann. § 27-19-317, “The time fixed in the order for its expiration may be extended, for good cause shown, for 10 days or, if the party against whom the order is directed consents, for a longer period. The reasons for the extension must be entered in the record.”

7. “Good cause” generally means a “legally sufficient reason.” *See, e.g., City of Helena v. Roan*, 2010 MT 29, ¶ 13, 355 Mont. 172, 226 P.3d 6012 (witness’s pregnancy was good cause to delay a trial.)

8. Here, good cause exists to extend the TRO for a 10-day period, until December 21, commensurate with the need to continue the show cause hearing until that date due to a conflict in the Court’s calendar.

9. The Court has already held that:

Dr. Raiser has no adequate remedy at law. Any delay in the issuance of a temporary restraining order until the hearing on a preliminary injunction will result in the immediate and irreparable harm to Dr. Raiser’s business, career, and well-being, including the loss of goodwill and reputation, if an order or injunction

is not entered requiring St. James to retract and correct the improper dissemination of confidential and privileged peer review matter and desist from all further such improper dissemination of confidential and privileged peer review matter and interference with Dr. Raiser's business and livelihood during the interim period.

The threat of harm to Dr. Raiser outweighs any potential harm to St. James. St. James has already improperly disseminated confidential and privileged peer review matter to third parties and interfered with Dr. Raiser's relationships with those parties twice. Dr. Raiser will suffer greater injury from the denial of temporary injunctive relief than St. James will suffer from the granting of such relief.

A Temporary Restraining Order until a hearing can be held on the request for a preliminary injunction is in the public interest as expressly stated in Montana peer review statutes.

TRO, ¶¶ 3-5.

10. Thus, if the TRO expires before the show cause hearing, the Court's previous rulings would be rendered meaningless. *See, e.g., State v. Child*, 2009 MT 148, 350 Mont. 369, 207 P.3d 339 (The briefing dates set forth in the Omnibus Order controlled over the briefing deadlines under Uniform District Court Rule 2, otherwise the Omnibus Order would be rendered meaningless.).

11. The undersigned has contacted counsel for St. James, who does oppose this motion to extend the TRO.

DATED this 1st day of December 2023.

RESOLUTE LAW PLLC

By: 

Timothy B. Strauch
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of December 2023, a true copy of the foregoing was served on the following persons by the following means:

- ☐ CM/ECF
- ☐ Hand Delivery
- ☐ Mail
- ☐ Overnight Delivery Service
- ☐ Fax
- ☒ 1, 2 E-Mail

1. Clerk, District Court
2. Michael A. Gawley
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Attorneys for St. James Healthcare

By: 

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